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| APPLICATION NO.                                                                                        | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--------------------------------------------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 10/081,315                                                                                             | 02/21/2002  | Eric H. Simonson     | 1247-1              | 3847             |
| 7590                                                                                                   | 07/20/2004  |                      | EXAMINER            |                  |
| Kenneth F. Florek<br>HEDMAN & COSTIGAN, P.C.<br>1185 Avenue of the Americas<br>New York, NY 10036-2601 |             |                      | SAVAGE, MATTHEW O   |                  |
|                                                                                                        |             |                      | ART UNIT            | PAPER NUMBER     |
|                                                                                                        |             |                      | 1724                |                  |
| DATE MAILED: 07/20/2004                                                                                |             |                      |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.



**Commissioner for Patents  
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APPLICATION NUMBER FILING DATE

**FIRST NAMED APPLICANT**

ATTY. DOCKET NO./TITLE

DATE MAILED:

**NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)**

The request for continued examination (RCE) under 37 CFR 1.114 filed on 7/6/04 is improper for reason(s) indicated below:

- 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d). An RCE cannot be treated as a CPA.
  - 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b).
  - 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
  - 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
  - 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on \_\_\_\_\_. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
  - 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
  - 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

**Note:** A continued prosecution application (CPA) under 37 CFR 1.53(d) cannot be filed in a utility or plant application. A CPA filed in a utility or plant application that has a filing date on or after June 8, 1995 will be treated as an RCE under 37 CFR 1.114. The request for a CPA in the instant application, however, has been treated as an improper RCE for the reason(s) indicated above.

***A copy of this notice **MUST** be returned with any reply.***

Direct the reply and any questions concerning this notice to:

*Patrick Wenz*, Technology Center 1700  
~~(404) 957-1272-1059~~